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Home (1953) Department

Rt SERIES. Mar passed

G.O. No. 2527

Dated 20.7.1953.

FOR MYSORE STATE

[Despatch Abstract.]

REVENUE DEPARTMENT:

Subject

COURTS: Criminal.- M.G.S.T. Act 1939 - Bellary District Bellary town - Mullangi Goolappa - Prosecution for Non-payment of tax convicted by S.D.M., Bellary - Acquittal by Sessions Judge, Bellary - Filing of appeal in High-Court against acquittal - Proposals submitted.

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Stn: Madras. Board's Ref.B. 1642/53-1 dt:25-5-53.

Sri D.Balasundaram, I.A.S., Secy., Board of Rev.(CT)Madras.
Sri V.N.Kudva, I.C.S., Commissioner of Commrl. Taxes.

READ:

From the C.T.O., Bellary, R.C.No.1068/53-B, dt. 18-4-53 and its enclosures.

From the Dy.Comnr. Madras, Rc.2668/53, dt.27-4-53.

REFERENCE:

Submitted to the Government, Home Department.

2. In the circumstances stated by the Commercial Tax-Officer, the Board considers that the filing of an appeal against the acquittal Judgment of the Sessions Judge, Bellary in C.A.No.31 of 1953 is necessary. It therefore, requests that the Govt. may be pleased to instruct the Pub.Prosecutor, Madras for filing an appeal in the High Court against the above acquittal judgment.

(I)

To

(for) SECRETARY,(CT).

The Secretary to Govt., Home department. -(By special Messenger)

with the follg.: 1.Bellary I DCTO's Asst.file No.1251/50-51
2.Two Copies of Judgt. in C.A.No.31/53.

Copy to:-

The Deputy Commissioner, Madras.
The Commercial Tax Officer, Bellary.

pgr.25.5.53.

112488

I

Copy of No.Rc.2668/53, dt. 27-4-53 of the Dy.Commissioner, Madras Dvn. to the Secy., Board (CT) Madras.

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Subject

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M.G.S.T. Act 1939 - Bellary Dt. - and town - Mullangi Goolappa conviction by Sub. Divl. Magistrate - Bellary - Acquittal by Session Judge - Report - submitted.

Ref:- From the C.T.O., Bellary, Rc.1068/53 B, dt.18-4-53.

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Submitted.

2. The Session Judge acquitted the accused who was charged with the offence of non payment of tax on the ground that the demand notices were served only on the clerk, that such service was not proper service for purpose of Rule 28 of the M.G.S.T. Rules 1939., and that therefore the time limit in the notice can have no legal effect on the dealers, I invite attention to this office Rc.1459/53 dt. 10-3-53., wherein a similar case was submitted to Board and the Board in its proceedings Rt.838/53, dt. 11-4-53 considered that no appeal need be filed in that case and directed the C.T.O. to serve fresh notice on the dealers in accordance with the provisions in rule 28 of M.G.S.T. Rules and to collect the arrears of Tax under Sec.10 of the M.G.S.T. Act 1939. In the circumstances the question of filing an appeal in the High Court may be dropped and the C.T.O. instructed to take neccy., action for collecting the balance.

(Sd) . . . . . ,
Dy. Commr.(M).'

- true copy -

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Copy of R.C.No.1068/53-B, dt. 18-4-53 of the C.T.O., in charge, Bellary to the Secy., Bd. of Rev.(CT), Madras. thro' the Dy.Commr. Madras Dvn. Madras.

Subject

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M.G.S.T. Act 1939 - Bellary Dt. and town - Mullangi Goolappa Conviction by Sub. Divl. Magistrate, Bellary - Acquittal- by Session Judge - Report - submitted.

Ref.- Bellary A.C.T.O's O.R. No.6052-53, dt. 15-4-53.

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Sri Mullangi Goolappa of Bellary was prosecuted by the A.C.T.O Bellary for non payment of final tax for 50-51 and provisional tax for 51-52 in the court of the Sub. Divl. Magistrate, Bellary. The Sub. Divl. Magistrate, Bellary convicted and sentenced the accused to pay a fine of Rs.350/- in C.C. No.97/52. On appeal preferred by the dealer the Session Judge acquitted on the ground that the demand notices were served on the clerk of the dealer and it is not a proper service in accordance with Rule 28 of the M.G.S.T. Rules. Both the demand notice of final tax for 50-51 and the demand notice of provisional tax for 51-52 were served on the clerk of the dealer.

In the B' notice, it is stated that the amount should be paid within twenty one days from the date of service. And in the A-2 notice it is stated that the dealer is provisionally assessed to tax, for 51-52. The dealer

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dealer has preferred an appeal before the C.T.O. in Appeal No.295/51-52 and it was dismissed by the Commercial Tax-Officer. And again the dealer preferred a Revision petition before the Dy.Commissioner in R.P.No.198/52-53 and the same was also dismissed by the Dy. Commissioner. In the face of these facts it is evident that the dealer has received the demand notices. But the learned Judge should not have interferred with the judgment of the Sub. Divl. Magistrate, Bellary who convicted the dealer and sentenced him to pay a fine of Rs.350/-.

The Pub. Prosecutor opines that this is a fit case to be taken to High Court in appeal. Hence, I request that this may kindly be taken to High Court.

The relevant records are enclosed.

(Sd) . . . . . ,
C.T.O, in-charge.

COPY of Bellary Govt. Pleader's Letter dated 15-4-53.

Sir,

I have gone through the judgment of the Sessions Judge and the relevant records. There is a good case for the Government.

I strongly recommend that this case may taken to the High Court as it is similar to other cases already sent.

(Sd) . . . . . ,
Pub. Prosecutor.

IN THE COURT OF SUB. DIVISIONAL MAGISTRATE, BELLARY.

O.R. No. /52-53. C.C. No.

Complainant. Asst.Commercial Tax Officer, Bellary.

Accused: Mullangi Goolappa, dealer in G.Nuts, cotton etc., car St., Bellary.

CHARGE SHEET UNDER SECTION 15(b) OF THE M.G.S.T. ACT 1939:

The dealer noted above is an assessee on the file of the Dy.Commercial Tax Officer, Bellary I. He was assessed to sales tax as noted below. The tax or the taxes assessed fell due on the dates noted below. He failed to pay the Tax assessed. He continues to be in default. This is an offence under Sec.15(b) of the M.G.S.T. Act, '39. Hence the charge sheet. It may kindly be taken on file and disposed off according to law. The relevant records are enclosed.

I. Final assessment for 1950-51,

Year.	Amount.	Date of Service of final Asst.Order.	Due date of payment.
1950-51	3,264-0-6	3-3-52.	24-3-52.

II. Provisional Asst.

Month.	Amount.	Date of service of provisional Asst.Order.	Due date of payment.
April 51. Febry.52. Payable for May 51 to March 52.	3,531/-	3-3-52.	24-3-52 Entire amount.

Records enclosed:

1. Asst. Order for 50-51.
2. B.Notice for 50-51.
3. Intimation of Asst. for 50-51.
4. P.A.Notice for 51-52.
5. Intimation of P.A. for 51-52.

(Sd) . . . . . ,
A.C.T.O., Bellary.

t rue copy -

Received on 10.3.
(For) Secretary C.T.

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[2488 Crs IV /53]

Home Department Crs I

Memo No: 112488 Crs IV/53-1 Dated: 3/6/1953

Criminal Justice - Appeal against acquittal - C.A. No 31 of 1953 on the file of the Sessions Judge, Bellary - Application

Ref: From the Board of Rev C.T., Madras No B1642/53-1 dt 25.5.53

Referred to the P.P., Madras for remarks.

1.6.53

2.6.53

2/6/53

Issued

Lr dt 4/6/53

G.O.

The P.P., Madras with (copy of PICF; pp 3-7 of (I), & (K) in org to be retd with reply)

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Note:- The date of judgment is 14.2.1953. Copy of
Three months time expires on 13.5.1953.
Six months time expires on 13.8.1953

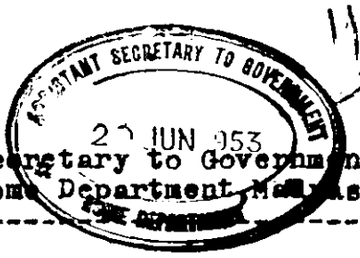
1.6.53

26.5.53

24/6/53

Sri V.T.Rangaswami Ayyangar, B.A.B.L., To
Public Prosecutor,
Madras.

The Secretary to Government,
Home Department, Madras.



Opn.No.127/53, dated 19-6-53.

Sir,

Sub: Appeal against acquittal- C.A.No.31/53, S.J.Bellary
Forwarding opinion.

With reference to Memorandum No.112488/Courts/IV/53-1, Home, dated 3rd June 1953, I have the honour to give below my opinion in the above matter.

2. The papers received for reference are returned herewith.

Opinion.

The interpretation placed by the learned Sessions Judge of rule 28-A of the rules framed under the General Sales Tax Act regarding the service of notice on a dealer does not appear to be correct as the clerk of the dealer could be his agent also and in fact the dealer appear to have been preferred appeals against the orders of the assessing officers. Under those circumstances in my opinion an appeal against acquittal could be filed. I would therefore like to have a copy of the judgment of the trial court in order to find out as to whether any such specific plea had been taken by the accused during the trial.

V.T. Rangaswami

Public Prosecutor. 19/6.

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[112488 Cts IV/53] Home Department (Cts IV)

Memo No 112488 cts IV/53-2 dated 29/6/53.

Issue

Criminal justice - Appeal against acquittal - C.A. No 31 of 1953 on the file of the Sessions Judge, Bellary - Application.

Ref: From the P.P., Madras Opn No 127 of 1953 dated 19.6.1953.

A copy of Opn No 127 of 1953 of the P.P., Madras is forwarded to the Bd of Rev C.I., Madras. The Bd is requested to obtain and forward (direct to the P.P., Madras) a copy of the judgment in C.C. No 94 of 1952 on the file of the

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The Addl District Munsif cum
First Class Magistrate, Bellary.

of 2 M of Land (I)

K&R
27.6.1953

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4/7.153

WB
29.6.53

The Board of Revenue Cr.,
Madras (with copy of M
Copy to the P. R. Madras
(with pp 3 = 5 cf. of (I) in original
to hereto)

IMMEDIATE.

Sri V.T.Rangaswami Ayyangar, B.A.,B.L., To
Public Prosecutor,
Madras.

The Secretary to Government,
Home Department,
Madras.

Opinion No. 127 of 1953, dated 13th July 1953.

Sir,

ASSISTANT SECRETARY TO GOVERNMENT
HOME DEPARTMENT

Sub: CRIMINAL JUSTICE - Appeal against acquittal -- C.A.No. 31 of 1953 on the file of the Sessions Judge, Bellary - Forwarding Opinion.

With reference to Memorandum No. 112488/Courts.IV/53-1, Home, dated the 3rd June, 1953, I have the honour to give below my opinion in the above matter.

2. The enclosures received for reference are returned herewith.

145052 14/7/53.

O P I N I O N.

I have perused the judgment of the trial court and the plea of sufficiency of service of notice was not specifically raised by him in answer to the question to him though the question appears to have been argued by the counsel at the end of the case. The learned Magistrate had dealt with it and in my opinion correctly. Under those circumstances an appeal against acquittal could be filed.

V.T. Rangaswami 13/7/53
Public Prosecutor.

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HOME DEPARTMENT.

(112488CKIV/53 G.O.~~Rt~~.No. 2527 Dated: 20/7/53.

Issue in Gazette

CRIMINAL JUSTICE - Appeal against acquittal CA. no 31 of 1953 on the file of the Sessions Judge, Bellary — Application - Sanctioned.

Read:- (1) From the ~~D.H.~~ Board of Rev. C.T., Madras no 1662/53-1 d 25.5.53
(2) From the P.P., Madras Opn no 127 of 1953 d 13.7.53
(3) From the P.P., Madras, Opn. No. 127 of 1953 d 13.7.53

ORDER:

Under Section 417 of the Code of Criminal Procedure, 1898 the Public Prosecutor, Madras is requested to present an appeal to the High Court against the acquittal by the Sessions Judge, Bellary of the appellant (accused in CA. no 31 of 1953 on his file.

To the P.P., Madras.
With (E), (K) & (H) copy
Copy to the ~~D.H.~~ Bd of Rev. CT, Madras with copy of (I).

NOTE:- The draft order above follows the opinion of the Public Prosecutor, Madras at pp 11 and 15 cf.

Date of judgment	14.8.1953.
3 months time expired on	13.5.1953
6 months time expires on	13.8.1953.

Revenue may see before issue

ASSISTANT SECRETARY TO GOVERNMENT
17 JUL 1953
REVENUE DEPARTMENT

Home dis. no. 112488-CK IV/53-3 dated 16.7.1953.

Revenue

Rev. Govt.

TO AS

The correspondence in the cf
One judgment at (1), ~~To Public Prosecutor's opinion on p 15 cf~~ and the draft overleaf may be perused and the file returned to Home Dept.

18/7/53

~~AS~~ 18.7.53

AS
18/7/53

18/7/53

(18/7)

Home

55/Rev

Home Rev. b.o. 6071 SN/53-1
18.7.53

The draft order overleaf may issue

20.7.53

20/7/53

FBS
20.7.53

ASSISTANT SECRETARY TO GOVERNMENT
19 JUL 1953
HOME DEPARTMENT

Recorded in CRSW